IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 18559 of 2004

Between:

1.M/s.Parinika Harvest Floratech Ltd., No.7-1-117, flat No.103, Ananda

Nilayam Apts., Ameerpet, Hyderabad.
2.Mrs. V.Aruna Reddy, W/o. Sudheer Reddy,
Plot No.107/1, Rd # 72, Jubilee Hills, Hyderabad.
3.V.Sudheer Reddy, S/o.Sri Bheem Reddy,
Plot No.107/1, Rd # 72, Jubilee Hills, Hyderabad.

..... PETITIONERS

AND

1 The Superintendent of Police, Central Bureau of Investigation, Kendriya

Sadan, Koti, Hyderabad.
2 The Inspector of Police, Central Bureau of Investigation, Kendriya Sadan,
Koti, Hyderabad.
3 Andhra Bank, Agri Hi Tech Branch, Lakdi-ka-pool,
Hyderabad rep.by its Branch Manager,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the Respondent Nos.1 and 2 in issuing the direction / instructions to 3rd Respondent as regards the release of securities offered by the petitioners for availing the loan as being illegal, arbitrary and without jurisdiction and consequently direct the Respondent No.3 to release the securities offered to 3rd Respondent on complying with the terms of compromise Decree in

O.A.No.288 of 2001, dated 30-04-2004, on the file of the Debt Recovery Tribunal, Hyderabad without conditions.

Counsel for the Petitioner: SMT.J.VIJAYALAKSHMI

Counsel for the Respondents: MR.C.SADASIVA REDDY

The Court made the following:

ORAL ORDER:

The petitioners seek a direction to the third respondent to release the documents offered as security to the said respondent in terms of the compromise decree in O.A.No.288 of 2001 dated 30.04.2004 on the file of the Debt Recovery Tribunal, Hyderabad.

The petitioner obtained a term and working capital loan from Dena Bank, the third respondent-Andhra Bank and National Horticulture Board. The petitioners borrowed Rs.1.00 crore from the third respondent-Bank and furnished primary and collateral securities for the said loan creating pari-pasu charge on the assets of the first petitioner-Company. Among the collateral security furnished to the third respondent-Bank the following are properties:

1. 14 Acres 35 Guntas land belonging to Mr.V.Sudheer Reddy under Sy.No.

    a. 4.38 Ac. in Sy.No.292/ , 292/ , 292/,

    b. 4.25 Ac. in Sy.No.291/ , 291/ , 291/,

    c. 0.22 gts. in Sy.No.293/ ,

    d. 0.35 gts. in Sy.No.289/ ,

    e. 1.27 Ac. in Sy.No.322/ ,

    f. 1.27 Ac. in Sy.No.322.

2. Def. 7 to 12 Acs.62.39 at Vavilallapally village, Narayanapuram Mandal, Nalgonda District.

3. Rs.2.00 lakhs fixed deposit in PHFL Name

4. Prime security of Ac.18.34 Guntas in Sy.Nos.321, 322, 323, 325 and 329 at Pendyal village, Maheswaram Mandal, R.R.District which is in Pari Passu charge between Dena Bank, Andhra Bank, NHB.

In respect of two other properties namely 1506 square yards at Jillalaguda village, Saroor Nagar Mandal, R.R.District in Survey Nos.8, 9 30, 31 and 32 belonging to V.Aruna Reddy, the second petitioner and another extent of 11.20 Acs. in the same village and district situated in Survey Nos.8, 9 and 30, belonging to one Mr.V.Sudheer Reddy, the third petitioner, the third respondent-Bank filed a complaint against the first petitioner-Company alleging that the collaterals provided are manipulated and forged and asserting other allegations with regard to the quality of the security of the aforesaid two properties. The complaint is pending investigation. It is represented that a charge sheet has also been filed and the CBI is pursuing the investigation and prosecution. In lieu of these two suspect properties, as security the petitioners have provided 7 other species of properties as security for the term and working capital loan already obtained by them.

The third respondent-Bank filed O.A.No.288 of 2001 against the petitioners for recovery of an amount of Rs.1,66,42,726/-. In the OA, the petitioners and the third respondent-Bank are stated to have entered into a compromise which was recorded by the Debt Recovery Tribunal on 30.04.2004 in O.A.No.288 of 2001. The petitioners contend that in terms of the compromise in O.A.No.288 of 2001, they are entitled for release of certain securities offered by them towards the loan both at the time of obtaining loan and later, on their repaying the loan amount in terms of the compromise dated 30.04.2004.

However, there appears to be hitch on account of the investigation and prosecution of the petitioners 2 and 3 as regards

two of the extents of property offered as primary and collateral security, already adverted to above.

In the above scenario, the respondents 1 and 2 have filed a counter-affidavit. To the extent relevant for the purposes of this writ petition, the counter reads:

"In this connection it is submitted that the property No.1 mentioned in Annexure i.e., 14 acres 35 guntas land belonging to Mr.V.Sudheer Reddy under Sy.Nos.289, 291, 292, 293 and 322 are not charge sheeted and not required by CBI and CBI has no objection for settling the bank dues by selling the above property. The property No.2 mentioned in Annexure are also not charge sheeted by the CBI and CBI has no objection for settling the bank dues by selling the above property. The property No.3 mentioned in Annexure is fixed deposit in the name of M/s.Parinika Harvest Floratech Ltd., and CBI does not have any objection if the same are released for settling the bank claims. The property No.4 mentioned in the Annexure was handed over to M/s Dena Bank on 01.08.2003 and CBI has no objection for settling the bank claims by selling the above property. It is further submitted that the documents pertaining to the Survey Nos.8, 9 and 30 of Jillalguda village, Saroornagar Mandal, R.R.District are filed along with charge sheet in RC No.9(A)/2000-CBI/Hyd CC No.1/2003."

The third respondent has also filed a counter-affidavit, from which there appears to be no resistance to the petitioners' request and claim for release of the documents and the title deeds relating to the 4 items of property initially offered as primary and collateral security by the petitioners, excluding the 2 items which are the subject matter of prosecution by the CBI. The learned Standing Counsel for the third respondent-Bank, however, contends that the documents in respect of these 4 species of property are with the CBI to which they have been entrusted by the third respondent-Bank for the purposes of investigation.

In the light of the averments in the counter-affidavit of the CBI, as the

4 properties are not the subject matter of the investigation or prosecution against the petitioners and are not required, there should be no objection in principle or fact for the CBI to return these documents to the custody of the third respondent-Bank and thereafter for the third respondent to release these documents in favour of the petitioners, on the petitioners satisfying the amount of loan due to the third respondent-Bank in terms of the compromise recorded by the Debt Recovery Tribunal in O.A.No.288 of 2001 by order dated 30.04.2004.

The third respondent is accordingly directed to release the following documents in favour of the petitioners after obtaining appropriate receipts from them and after the petitioners satisfy the amounts due to the third respondent, in respect of repayment of the loan, as per the terms recorded in O.A.No.288 of 2001 by order dated 30.04.2004;

1. 14 Acres 35 Guntas land belonging to Mr.V.Sudheer Reddy under Sy.No.

a. 4.38 Ac. in Sy.No.292/ , 292/ , 292/,

b. 4.25 Ac. in Sy.No.291/ , 291/ , 291/,

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Mandal, R.R.District which is in Pari Passu charge between Dena Bank, Andhra Bank, NHB.

The Writ Petition is disposed of as above.

29.12.2004

VGB

To

1 The Superintendent of Police, Central Bureau of Investigation, Kendriya

Sadan, Koti, Hyderabad.

2 The Inspector of Police, Central Bureau of Investigation, Kendriya Sadan, Koti, Hyderabad.

3 The Branch Manager, Andhra Bank, Agri Hi Tech Branch, Lakdi-ka-pool, Hyderabad.

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